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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,751	02/20/2004	David Levin	MS1-1861US	7386
22801	7590	10/13/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			DEO, DUY VU NGUYEN	
			ART UNIT	PAPER NUMBER

1765

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,751	Applicant(s) LEVIN ET AL.	
	Examiner Duy-Vu N. Deo	Art Unit 1765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-16 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/20/04, 8/7/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 10-12, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bird et al. (US 5,224,098).

Bird describes a method comprising: informing the control point of the characteristics of the transport functions (claimed a message including policy), which are then compared to corresponding transport functions in the selected transport provider for compensation requirements (claimed one or more assertions characterizing communication properties or a plurality of policy expressions characterizing communication properties), by the first node (claimed destination node) (claimed advertising a policy having one or more assertions characterizing communication properties of a destination node). The compensation requirements are communicated to the control point of the second node (claimed source node) as the protocol compensator at the second node must know how to decompensate for the any compensation made at that first node (this would read on claimed the assertion specifying a communication property supported by the destination node and selectable by a source node to construct a communication protocol for the communication with the destination node or generating a message that conforms to the policy or selecting one

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of the plurality of policy expressions to be applied during the communication with the first node or destination node) (col. 5, line 58-col. 6, line 25).

Referring to claims 3, 15 the method includes the compensation requirements are added to every packet in the data stream (claimed advertising operation comprises incrementally distributing the policy) (col. 6, line 33-38).

Referring to claim 4, the compensations is established to the program wishes to set up a session between itself and a second application program at another node, in which the first application must issue one of the requests and the second program must be located (col. 5, line 60-67). This would read on claimed generating a message including the policy in response to a request for the policy.

Referring to claim 14, figure 1 shows the transport functions with the compensation requirements from the first node 10 communicates with the second node 12 through the communications system 26 (claimed the retrieving operation comprises retrieving the destination node policy from a node other than the destination node).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bird as applied to claims 1 and 10 above.

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Referring to claim 9, Bird doesn't describe determining whether a received message conforms to at least one of the plurality of assertions. However, it is obvious for one skilled in the art to do so because it would confirm that the compensation requirements are correctly processed and recognized by the partner or second node (claimed source node) (col. 6, line 5-15, 20-25).

Referring to claims 13 and 16, even though Bird doesn't describe the process performed by the second node 12 (claimed source node). However, he describes the node 12 has the same components that perform the same functions as that of the node 10 and figure 1 shows two-way communication between the two nodes (fig. 1; col. 4, line 29-41). Therefore, one skilled in the art would find it obvious to perform the same process for the second node because it has the same components as that of the first node and to provide communication from the second node 12 to the first node 10.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-4 recite the limitation "the advertising operation". There is insufficient antecedent basis for this limitation in the claim.

7. Claims 13-15 recite the limitation "the retrieving operation". There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

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8. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 5 is allowable because applied prior art doesn't suggest or teach *grouping two or more of the one or more assertions into a policy expression in the policy and specifying a relationship between the two or more assertions.*

Claim 6 is allowable because applied prior art doesn't suggest or teach *specifying a preference for at least one of the plurality of assertions over at least one other of the plurality of assertions in the policy.*

Claim 7 is allowable because applied prior art doesn't suggest or teach *grouping two or more of the plurality of assertions into a first policy expression; specifying a first relationship between the two or more assertions in the first policy expression; specifying a second relationship between the first policy expression and at least one other assertion not in the first policy expression.*

Claim 8 is allowable because applied prior art doesn't suggest or teach *generating an input policy having a plurality of assertions characterizing input communication properties of the destination node and an output policy having a plurality of assertions characterizing output communication properties of the destination node.*

Election/Restrictions

9. Applicant's election without traverse of claims 1-16 in the reply filed on 8/7/06 is acknowledged.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy-Vu N. Deo whose telephone number is 571-272-1462. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on 571-272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Duy-Vu N Deo
Primary Examiner
Art Unit 1765

10/10/06

